

REMARKS/ARGUMENTS

Claims 20-22 and 26-28 are pending.

Applicants respectfully submit the following remarks in response to the Office Action of April 28, 2004.

Rejection of Claims 20-22 and 26-28 under the Judicially Created Doctrine of Obviousness-type Double Patenting (in view of US Patent No. 5,441,951)

Claims 20-22 and 26-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 5,441,951 (hereinafter '951). Applicant respectfully traverses the basis of this rejection.

The present invention pertains to a class of compounds useful for treating phospholipase D (PLD) initiated polymorphoneutrophil (PMN) inflammation in a subject.

The '951 patent does not teach or suggest use of any compound to treat phospholipase D (PLD) initiated polymorphoneutrophil (PMN) inflammation in any subject.

The '951 patent serves more as a "genus" of related compounds that can treat various conditions. The presently claimed invention discloses a "species" or subgenus of compounds that specifically treat phospholipase D (PLD) initiated polymorphoneutrophil (PMN) inflammation in a subject.

Consequently, reconsideration and withdrawal of this rejection is respectfully requested.

Rejection of Claims 20-22 and 26-28 under the Judicially Created Doctrine of Obviousness-type Double Patenting (in view of US Patent Nos. 6,353,026 and 6,720,354)

Claims 20-22 and 26-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,353,026 and over claims 1-6 of U.S. Patent No. 6,720,354.

Both U.S. Patent Nos. 6,353,026 and 6,720,354 are commonly owned by the same entity. Upon Notice of Allowance, Applicant is willing to provide terminal disclaimers with regard to U.S. Patent Nos. 6,353,026 and 6,720,354, thereby obviating the basis for this rejection.

Rejection of Claims 20-22 and 26-28 under the Judicially Created Doctrine of Obviousness-type Double Patenting (in view of US Patent Application 10/042,043)

Claims 20-22 and 26-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20-22 and 26-28 of pending U.S. Patent Application No. 10/042,043.

U.S. Patent Application No. 10/042,043 is commonly owned by the same entity. Upon Notice of Allowance, Applicant is willing to provide a terminal disclaimer with regard to U.S. Patent Application No.10/042,043, thereby obviating the basis for this rejection.

CONCLUSION

In view of the foregoing, Applicant submits that all pending claims distinguish over all references cited by the Examiner and respectfully requests that all rejections be withdrawn. The Examiner is invited to telephone the undersigned attorney for Applicant in the event that such communication is deemed to expedite prosecution of this application.

It is believed that no additional fees are due in connection with this communication. However, the Office is hereby authorized to charge any deficiency, or credit any overpayment to Deposit Account. No. 04-1420.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: _____

July 15, 2009

By: _____

Scott D. Rothenberger

Scott D. Rothenberger
Reg. No. 41,277

Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 340-8819